

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

JASON KERNS, ARCHIE KERNS, and  
MARY ANN KERNS,

Plaintiffs,

vs.

No. CIV 07-0771 JB/ACT

BOARD OF COMMISSIONERS OF  
BERNALILLO COUNTY, BERNALILLO COUNTY  
SHERIFF DARREN WHITE, in his individual and his  
official capacity, BERNALILLO COUNTY SHERIFF'S  
DETECTIVES BRIAN LINDLEY, RALPH GONZALES, and  
JAMES HAMSTEN, in their individual capacities, BERNALILLO  
COUNTY SHERIFF DEPUTIES LAWRENCE KOREN,  
SEAN CONNORS, AARON WRIGHT, TIMOTHY HIX, and  
RHONDA MOYA, in their individual capacities, THE CITY OF  
ALBUQUERQUE, ALBUQUERQUE POLICE DEPARTMENT  
OFFICERS DREW BADER, MATT THOMPSON, RUSSELL CARTER,  
ROBERT JOHNSTON and JAMES MONTOYA,  
in their individual capacities, METROPOLITAN FORENSIC  
SCIENCE CENTER FIREARM AND TOOL MARK EXAMINER  
MIKE HAAG, in his individual capacity, and JOHN DOES 1-10,  
in their individual capacities,

Defendants.

**MEMORANDUM OPINION AND ORDER**

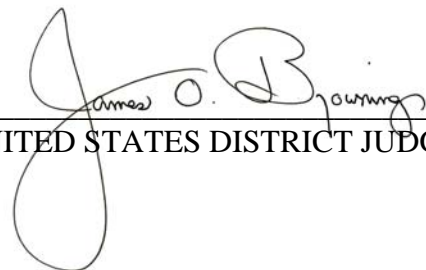
**THIS MATTER** comes before the Court on: (i) the United States Court of Appeals for the Tenth Circuit's Judgment, filed January 19, 2012 (Doc. 286-2)("Tenth Circuit Judgment"); and (ii) United States Court of Appeals for the Tenth Circuit's Opinion, filed January 19, 2012 (Doc. 286-1).<sup>1</sup> In the Tenth Circuit Judgment, the United States Court of Appeals for the Tenth Circuit instructed the Court to dismiss the claims against Defendants Sheriff Darren White, Detective Brian Lindley, Deputy Lawrence Koren, and Mike Haag on the basis of qualified immunity. See Tenth

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<sup>1</sup>The opinion is published as Kerns v. Bader, 663 F.3d 1173, 1177 (10th Cir. 2011).

Circuit Judgment at 5. Accordingly, the Court will dismiss the federal claims against those defendants: (i) Count II -- unlawful search and seizure claim asserted against Lindley; (ii) Count III -- unlawful search and seizure of medical information and deprivation of medical privacy contrary to the Fourth Amendment, the Fourteenth Amendment, and the Federal Privacy Act, 5 U.S.C. § 552A(b)(7) -- asserted against White; (iv) Count IV -- false arrest/false imprisonment of J. Kerns under the Fourth Amendment -- asserted against Lindley, Koren, and Haag; and (v) Count V -- malicious prosecution under the Fourth Amendment -- asserted against Lindley, Koren, and Haag. See First Amended Complaint for Damages Caused by the Deprivation of Civil Rights and Other Tortious Conduct at 19-23, filed November 26, 2007 (Doc. 5).

**IT IS ORDERED** that Counts II through V of the First Amended Complaint for Damages Caused by the Deprivation of Civil Rights and Other Tortious Conduct, filed November 26, 2007 (Doc. 5), are dismissed with prejudice, pursuant to the United States Court of Appeals for the Tenth Circuit's Judgment, filed January 19, 2012 (Doc. 286-2).



UNITED STATES DISTRICT JUDGE

*Counsel:*

Marc M. Lowry  
Carolyn M. Nichols  
Rothstein, Donatelli, Hughes, Dahlstrom,  
Schoenburg & Bienvenu, LLP  
Albuquerque, New Mexico

*Attorneys for the Plaintiffs*

Daniel J. Macke  
Robles, Rael, & Anaya, P.C.  
Albuquerque, New Mexico

*Attorneys for Defendants Board of Commissioners of  
Bernalillo County, Bernalillo County Sheriff Darren*

*White, Bernalillo County Sheriff's Detectives Brian Lindley,  
and Bernalillo County Sheriff's Deputy Lawrence Koren*

Stephanie M. Griffin  
Assistant City Attorney  
Albuquerque City Attorney's Office  
Albuquerque, New Mexico

*Attorneys for Defendants Albuquerque Police  
Department Officers Drew Baden, Matt Thompson,  
Russell Carter, and Metropolitan Forensic Science  
Center Firearm and Tool Mark Examiner Mike Haag.*